IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 15759 of 2004

Between:

Shaheen Sultana W/o Mohammed Ahmed
R/o 10-5-26/1, Flat No. 102 Rock Mansion, Masab Tank,

Hyderabad

... PETITIONER

AND

1 The Passport Officer, O/o Passport Officer, Hyderabad
2 Ministry of External Affairs, New Delhi

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 1st respondent in denying to alter petitioner's date of birth as 19th April, 1950 as per the Certificate of birth issued by Municipal Corporation of Hyderabad in the concerned passport of the petitioner bearing NK E 2724897 as arbitrary illegal, and violative of Art. 14 and 21 of the

Constitution of India and consequently direct the 1st respondent to alter the date of birth of the petitioner as 19th April, 1950 in terms of the Certificate of birth issued by the Municipal Corporation of Hyderabad in the relevant passport of the petitioner in the interest of justice.

Counsel for the Petitioner: MR.NAGESWARA RAO TURAGA

Counsel for the Respondents: MR.ARAJASHEKAR REDDY & Smt. C. VANI REDDY (SC FOR CG)

The Court, at the admission stage, made the following:

O R D E R:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government for the respondents-Passport Authority.

2 . It is the case of the petitioner that her actual date of birth is 18.02.1954, but in the Passport issued to her by the respondents, her date of birth is wrongly mentioned as 19.04.1950, and that though she represented to the respondents, to alter her date of birth in the Passport and issue fresh passport, the respondents are refusing to entertain the application on the ground that they have no power to make correction of date of birth in the Passport. The petitioner, therefore, filed the present writ petition praying to direct the respondents to entertain her application for correction of date of birth and issue fresh Passport.

3 . It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No. 1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-4-2001, which are to the following effect:

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after

verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

4. As of today, if any request for correction of date of birth in the Passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

5. The respondents are directed to receive the application of the petitioner for correction of date of birth in the Passport/issuance of fresh Passport, and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of her case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

6. With the above directions, the writ petition is disposed of. No costs.

N.V. RAMANA, J

02.12.2004

AVS/NSR

To:

1 The Passport Officer, O/o Passport Officer, Hyderabad
2 Ministry of External Affairs, New Delhi

3 Two C.D. Copies.